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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,170	09/11/2000	Jeffry Jovan Philyaw	PHLY-25340	6265

25883 7590 05/07/2004

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EXAMINER	
FADOK, MARK A	

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/659,170	PHILYAW, JEFFRY JOVAN
	Examiner	Art Unit
	Mark Fadok	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The examiner is in receipt of response to office action mailed 11/17/2003, which was received by the office 3/17/2004. Acknowledgment is made to the amendment to claims 1 and 11, leaving claims 1-30 as pending in the instant application. The arguments conserning the priority was not persuasive, however, the applicant's amendment and arguments concerning the rejection on the merits have been carefully considered, and were found to be persuasive; therefore a new basis of rejection is provided below:

Priority

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows: A review of co-pending applications 09/151,471 and 09/151,530 to which applicant claims priority, did not provide information to support the claims of the instant application. Therefore, in regards to the applicant's request for priority to the above applications, the request is denied.

To further clarify reference to this design application as a continuation-in-part under 35 U.S.C. 120 is acknowledged. Applicant is advised that design case law holds that any change to the shape or configuration of a design disclosed in an earlier application constitutes an entirely new design that cannot rely upon the earlier one for priority. See In re Salmon, 705 F.2d 1579, 217 USPQ 981 (Fed. Cir. 1983). Therefore, a later filed application that changes the shape or configuration of a design disclosed in a prior application does not satisfy the written description requirement of 35 U.S.C. 112,

first paragraph, under 35 U.S.C. 120 and is not entitled to benefit of the earlier filing date. In addition, where an application is found to be fatally defective under 35 U.S.C. 112 because of an inadequate disclosure to support an allowable claim, a second design patent application filed as an alleged "continuation-in-part" of the first application to supply the deficiency is not entitled to the benefit of the earlier filing date. See Hunt Co. v. Mallinckrodt Chemical Works, 177 F.2d 583, 83 USPQ 277 (Fed. Cir. 1949). However, unless the filing date of the earlier application is actually needed, such as to avoid intervening prior art, the entitlement to priority in this CIP application will not be considered. See In re Corba, 212 USPQ 825 (Comm'r Pat. 1981).

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5,7-15 and 17-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhoads (US 6,311,214) in view of Kramer et al (6,327,574).

In regards to claim 1, Rhoads discloses a method of accessing a vendor web site disposed on a network at the vendor location thereon using personal account information of a user retrieved from a credit card company server disposed on the network at a credit card location thereon, comprising the steps of:

at a user location disposed on the network, reading a machine-resolvable code (MRC) on the credit card of the user with a reading device (col 22, lines 15-67 and abstract);

extracting coded information from the MRC (col 5, lines 25-30);

obtaining routing information associated with the coded information, which routing information corresponds to the personal account information of the user stored on the credit card company server disposed on the network (col 22, lines 25-40);

connecting the user location to the credit card company server across the network in accordance with the routing information. Rhoads teaches accessing a website that is specified by the MRC encoded on a device such as a credit card (col 23, lines 1-10, and obtaining credit card data (col 22, lines 25-40), but does not specifically mention that the MRC is directing the user to a credit card company. Kramer teaches obtaining credit card

data from a client machine (FIG 1). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Rhoads accessing a credit card company directly to obtain the credit card information, because this would provide direct access and save the user time by steam lining the system.

returning the personal account information from the credit card company server to the user location, which returned personal account information contains routing information relating to vendors that previously had been commercially related with by the user. Rhoads teaches accessing and returning credit card information, but does not specifically mention that the returned information contains routing information relating to vendors that previously had been commercially related with by the user. Kramer teaches accessing credit card information (see above) and also routing information relating to vendors that previously had been commercially related with by the user (FIG 3B). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Rhoads the routing information relating to vendors that previously had been commercially related with the user as taught by Kramer, because this would provide marketing opportunities for vendors and thus create a stream of income thus boosting profits.

presenting the personal account information to the user at the user location (Rhoads, abstract and summary, Kramer, FIG 1); and

providing a hyperlink to a web site of a vendor in the personal account information for automatic connection of the user location to the vendor web site in response to the selection thereof (Kramer FIG 3B).

In regards to claim 2, Rhoads teaches wherein the MRC is optical indicia (col 26, lines 63-67).

In regards to claim 3, Rhoads teaches wherein the optical indicia is a bar code (col 18, lines 40-45).

In regards to claim 4, Rhoads teaches wherein the routing information in the step of obtaining is stored on a user computer at the user location such that the coded information in the step of extracting is used to obtain the corresponding routing information from the user computer (col 8, lines 10-20 and col 16, lines 14-23).

In regards to claim 5, Rhoads teaches wherein the user computer stores a plurality of coded information each associated with unique routing information such that reading of the MRC of a select one of one or more credit cards of the user causes the user computer to connect to the corresponding credit card company server over the network (col 26, line 64 – col 27, line 14).

In regards to claim 6, Rhoads teaches wherein personal account information in the step of presenting is displayed on a computer display operatively connected to a user computer at the user location (FIG 1).

In regards to claim 8 Rhoads teaches wherein the routing information in the step of obtaining comprises: a network address of the credit card company server on the network and file path information which locates the personal account information of the user on the credit card company server (col 26, line 65 – col 27, line 2).

In regards to claim 9 Rhoads teaches wherein the hyperlink is associated with a line item transaction of the personal account information such that the purchased product associated with the line item transaction is a select one of one or more products of the vendor of the web site which are available for purchase (col 27, lines 37-42, purchase information).

In regards to claim 10 Rhoads teaches wherein the hyperlink is associated with the line item transaction is unrelated to product information of one or more products of the vendor of the web site which are available for purchase and to which the hyperlink is associated (Kramer, FIG 3B).

In regards to claim 11 Rhoads discloses an accessing a vendor web site on a network using personal credit card account information retrieved from a credit card company server disposed on the network, comprising:

a machine-resolvable code (MRC) on the credit card of a user, wherein said MRC is read with a reading device at a user location of said user, said user location disposed on the network, and coded information of said MRC extracted therefrom;

routing information associated with said coded information, which said routing information corresponds to the personal account information of said user stored on the credit card company server;

wherein the user location is connected to the credit card company server across the network in accordance with said routing information, and the personal account information returned from the credit card company server to said user location is presented to said user at said user location which returned personal account information contains routing information relating to vendors that previously had been commercially related with by the user; and

a hyperlink to a web site of a vendor provided in the personal account information for automatically connecting said user location to said web site in response to the selection thereof See response to claim 1).

In regards to claim 12, Rhoads teaches wherein said MRC is optical indicia (see response to claim 2).

In regards to claim 13, Rhoads teaches wherein said optical indicia is a bar code (see response to claim 3.

In regards to claim 14, Rhoads teaches wherein said routing information is stored on a user computer at said user location such that said coded information is used

to obtain the corresponding said routing information from said user computer (see response to claim 4).

In regards to claim 15, Rhoads teaches wherein said user computer stores a plurality of said coded information each associated with unique said routing information such that reading of said MRC of a select one of the one or more credit cards of said user causes said user computer to connect to the corresponding credit card company server over the network see response to claim 5).

In regards to claim 17, Rhoads teaches wherein personal account information is displayed on a computer display operatively connected to a user computer at said user location (see response to claim 7).

In regards to claim 18, Rhoads teaches wherein said routing information comprises a network address of the credit card company server on the network and file path information which locates the personal account information of said user on the credit card company server (see response to claim 8).

In regards to claim 19, Rhoads teaches wherein said hyperlink is associated with a line item transaction of the personal account information such that said

purchased product associated with said line item transaction is a product available for purchase from said vendor web site (see response to claim 9).

In regards to claim 20, Rhoads teaches wherein said hyperlink is associated with a line item transaction of the personal account information such that said purchased product associated with said line item transaction is unrelated to product information of one or more products of said vendor of the web site which are available for purchase and to which said hyperlink is associated (see response to claim 10).

In regards to claim 21, Rhoads discloses a method for connecting to a remote provider location on a network from a user location thereon comprising the steps of;

inputting a unique commerce code at the user location, wherein the unique commerce code is associated with commercial transactions of the user of the unique commerce code;

in response to the step of inputting, displaying to the user correlating historical commercial transaction information associated with the unique commerce code, which displayed correlating historical commercial transaction information has associated therewith corresponding routing information over the network to other locations on the network,

at least one of which is the remote commerce provider's location on the network;

allowing the user the option of selecting the routing information to the remote commerce provider's location on the network; and

in response to the user selecting, connecting of the user location to the remote commerce provider's location (see response to claim 1).

In regards to claim 22, Rhoads teaches wherein the step of displaying in response to the step of inputting comprises the steps of:

connecting to a commerce transaction location on the network that is associated with the unique commerce code in the step of inputting (col 23, lines 1-10);

the commerce transaction location having associated therewith a relational database with a plurality of information blocks of commercial transaction information associated with at least a portion of each of a plurality of unique commerce codes (col 22, lines 24-37); and

comparing the received at least a portion of the unique commerce code with the database and, if a match exists, returning the associated information block of commercial transaction information to the user (col 22, lines 42-45).

In regards to claim 23, Rhoads teaches wherein the returned information block is unique to the at least a portion of the unique commerce code transmitted thereto (see response to claim 22).

In regards to claim 24, Rhoads teaches wherein the unique commerce code is comprised of a first portion that is associated with routing information to the commercial transaction location on the network and a second portion that is related to the associated

information block of commercial transaction information in the database, the second portion corresponding to the at least one portion (col 16, lines 14-35).

In regards to claim 25, Rhoads teaches wherein the step of connecting comprises the steps of:

routing at least a portion of the unique commerce code to an intermediate location on the network (col 22, lines 43-45),

the intermediate location containing a database with relational information between a plurality of the at least portion of the unique commerce codes to network addresses of commercial transaction locations on the network (see response to claim 1);

comparing the received at least portion of the unique commerce code with information in the database (col 51, lines 51-65); and

if a match exists, returning the routing information to the commercial transaction location on the network and connecting thereto (Col 22, lines 50-67, authorized access).

In regards to claim 26, Rhoads teaches wherein the unique commerce code has a first portion that is stored in the database associated with the intermediate location on the network for determining the location of the commercial transaction location network and

a second portion associated with the database at the commercial transaction location on the network for determining the information to be returned to the user (col 22, lines 24-42, website, authorization).

In regards to claim 27, Rhoads teaches wherein the unique commerce code is disposed on a substrate and the step of inputting comprises reading the unique commerce code disposed on the substrate (see response to claim 2).

In regards to claim 28, Rhoads teaches wherein the step of reading the unique commerce code comprises using a bar code reader (see response to claim 3).

In regards to claim 29, Rhoads teaches wherein the substrate comprises a credit card (col 22, lines 43-45).

In regards to claim 30, Rhoads teaches wherein the credit card, in addition to having the unique commercial code associated therewith, has additional identification information for the purposes of utilizing the credit card in a in a commercial transaction outside the step of inputting (col 24, lines 13-24).

Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhoads (US 6,311,214) in view of Kramer et al (6,327,574) and further in view of Official Notice.

In regards to claim 6, Rhoads teaches the use of a scanner, but does not specifically mention that the scanner is wireless. It was old and well known in the art at the time of the invention to use wireless scanners to input information to a user computer. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Rhoads the use of a wireless scanner, because this would provide mobility and allow a person to scan a heavy object the is away from the personal computer, thus providing more efficiency to the system.

In regards to claim 16, Rhoads teaches wherein said reading device is a wireless scanner which transmits said coded information to a user computer via a receiving device operatively connected to said user computer (see response to claim 6).

Response to Arguments

Applicant's arguments, see Paper 11, filed 3/17/2003, with respect to claims 1-30 have been fully considered and are persuasive. Therefore, the rejection has been

withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Rhoads further in view of Kramer.

The arguments regarding the denial of the priority by the examiner was not persuasive and is restated above with clarification.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vincent Millin** can be reached on **(703) 308-1065**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 872-9306 [Official communications; including

After Final communications labeled

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(703) 746-7206 [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

Mark Fadok

Patent Examiner